



Fast Track Proposed Regulation Agency Background Document

Agency name	Department of Mines, Minerals and Energy
Virginia Administrative Code (VAC) citation	4 VAC 25-150
Regulation title	Virginia Gas and Oil Regulation
Action title	Amendment to accept the Virginia Coordinate System of 1983 instead of the Virginia Coordinate System of 1927
Date this document prepared	February 14, 2008

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 36 (2006) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

Please provide a brief summary (no more than 2 short paragraphs) of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes.

The Department of Mines, Minerals and Energy is amending 4VAC25-150, Virginia Gas and Oil Regulation. The amendment will allow acceptance of permit applications using the Virginia Coordinate System of 1983, instead of requiring the use of the 1927 Virginia Coordinate System, as specified in the existing regulation. Current industry practice is to use the more modern 1983 coordinate system for describing the locations of wells and core holes. Applicants for permits under this chapter must currently convert their coordinates back to the 1927 system, as required by the regulation, in order to submit them to the Department of Mines, Minerals and Energy's Division of Gas & Oil. The amendment will allow applicants to use the updated 1983 coordinate system.

Statement of final agency action

Please provide a statement of the final action taken by the agency including (1) the date the action was taken, (2) the name of the agency taking the action, and (3) the title of the regulation.

On (date to be filled in after executive branch review), the Department of Mines, Minerals and Energy amended 4VAC25-150, Virginia Gas and Oil Regulation.

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., the agency, board, or person. Describe the scope of the legal authority and the extent to which the authority is mandatory or discretionary.

The Department of Mines, Minerals and Energy (DMME) has authority to promulgate this regulation under § 45.1-161.3, Powers of the Department, and § 45.1-361.27, Duties, Responsibilities and Authority of the Director.

- § 45.1-161.3 empowers DMME, with the approval of the Director, to promulgate regulations necessary or incidental to the performance of duties or execution of powers under Title 45.1 of the Code of Virginia.
- § 45.1-361.27 of the Code of Virginia empowers the DMME Director to promulgate and enforce rules, regulations and orders necessary to ensure the safe and efficient development and production of gas and oil resources located in the Commonwealth.

Purpose

Please explain the need for the new or amended regulation. Describe the rationale or justification of the proposed regulatory action. Detail the specific reasons the regulation is essential to protect the health, safety or welfare of citizens. Discuss the goals of the proposal and the problems the proposal is intended to solve.

The Department of Mines, Minerals and Energy is amending 4VAC25-150, Virginia Gas and Oil Regulation. The amendment will allow acceptance of permit applications using the Virginia Coordinate System of 1983, instead of requiring the use of the 1927 Virginia Coordinate System, as specified in the existing regulation. Current industry practice is to use the more modern 1983 coordinate system for describing the locations of wells and core holes. Applicants for permits under this chapter must currently convert their coordinates back to the 1927 system, as required by the regulation, in order to submit them to the Department of Mines, Minerals and Energy's Division of Gas & Oil. The amendment will allow applicants to use the updated 1983 coordinate system.

The 1983 coordinate system was established by the National Ocean Survey/National Geodetic Survey. It is an acceptable Virginia Coordinate System under §55-287 of the Code of Virginia. Acceptance of the 1983 coordinate system for permits issued under this chapter would reduce the extra workload applicants currently face in being required to convert their coordinates to an outdated system. This amendment brings the Virginia Gas and Oil Regulation into alignment with current surveying and mapping practices.

Rationale for using fast track process

Please explain the rationale for using the fast track process in promulgating this regulation. Why do you expect this rulemaking to be non-controversial?

Please note: If an objection to the use of the fast-track process is received within the 60-day public comment period from 10 or more persons, any member of the applicable standing committee of either house of the General Assembly or of the Joint Commission on Administrative Rules, the agency shall (i) file notice of the objection with the Registrar of Regulations for publication in the Virginia Register, and (ii) proceed with the normal promulgation process with the initial publication of the fast-track regulation serving as the Notice of Intended Regulatory Action.

This amendment is expected to be non-controversial because many parties applying for permits under the Virginia Gas and Oil Regulation have requested that the Department update its requirements for the submission of coordinates. Furthermore, the regulation change will reduce workload and increase efficiency for applicants. It will have no negative impact on DMME's regulatory process.

Substance

Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. (Provide more detail about these changes in the "Detail of changes" section.)

This action amends one subsection of 4VAC25-150, Virginia Gas and Oil Regulation. The amended subsection is 4VAC25-150-90 D.2., which describes the requirements for showing the horizontal location of a well or core hole on a plat submitted with a permit application. Currently, the subsection states that the well or core hole location shall be shown in accordance the Virginia Coordinate System of 1927. The amendment changes this requirement to state that the location shall be shown in accordance with the Virginia Coordinate System of 1983. Virginia coordinate systems are defined in § 55-287 of the Code of Virginia.

Issues

Please identify the issues associated with the proposed regulatory action, including:

- 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions;*
- 2) the primary advantages and disadvantages to the agency or the Commonwealth; and*
- 3) other pertinent matters of interest to the regulated community, government officials, and the public.*

If there are no disadvantages to the public or the Commonwealth, please indicate.

The subject amendment is expected to be advantageous to applicants for permits for gas and oil operations under 4VAC25-150. It will allow them to submit locations for their operations in a coordinate system that they are already using, rather than having to convert the locations to an

outdated coordinate system just to meet the requirements of the regulation. It will reduce their workload and increase their efficiency. In making this amendment, no disadvantages to the Commonwealth, the agency, or the public are foreseen.

Requirements more restrictive than federal

Please identify and describe any requirement of the proposal which is more restrictive than applicable federal requirements. Include a rationale for the need for the more restrictive requirements. If there are no applicable federal requirements or no requirements that exceed applicable federal requirements, include a statement to that effect.

The proposed regulation amendment is no more restrictive than any federal requirement.

Localities particularly affected

Please identify any locality particularly affected by the proposed regulation. Locality particularly affected means any locality which bears any identified disproportionate material impact which would not be experienced by other localities.

No locality will be particularly affected by this amendment.

Regulatory flexibility analysis

Please describe the agency's analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) the establishment of less stringent compliance or reporting requirements; 2) the establishment of less stringent schedules or deadlines for compliance or reporting requirements; 3) the consolidation or simplification of compliance or reporting requirements; 4) the establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the proposed regulation.

This action amends an existing regulation chapter considered essential for preserving the health and safety of Virginia's citizens and promoting the environmental and economic welfare of the Commonwealth. Less stringent reporting requirements, less stringent deadlines, or the exemption of small businesses would not meet these requirements. The amendment will simplify reporting requirements by reducing the number of steps applicants must take to prepare their data for submission in permit applications. Taking no action would not provide this benefit to applicants and would result in the retention of an outdated coordinate system in the regulation.

Economic impact

Please identify the anticipated economic impact of the proposed regulation.

<p>Projected cost to the state to implement and enforce the proposed regulation, including (a) fund source / fund detail, and (b) a delineation of one-time versus on-going expenditures</p>	<p>No costs are anticipated. This amendment will have no fiscal impact on the agency’s current regulatory process.</p>
<p>Projected cost of the regulation on localities</p>	<p>No costs are anticipated.</p>
<p>Description of the individuals, businesses or other entities likely to be affected by the regulation</p>	<p>Applicants for permits under 4VAC25-150, Virginia Gas and Oil Regulation</p>
<p>Agency’s best estimate of the number of such entities that will be affected. Please include an estimate of the number of small businesses affected. Small business means a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.</p>	<p>Currently, there are about 25 companies with gas and oil operations regulated under 4VAC25-150. Of these, at least 20 meet the definition of “small business.”</p>
<p>All projected costs of the regulation for affected individuals, businesses, or other entities. Please be specific. Be sure to include the projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses.</p>	<p>No costs are anticipated. The amendment makes no substantive change to current recordkeeping, reporting, or other administrative requirements</p>

Alternatives

Please describe any viable alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in §2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulation.

No other alternative would meet the essential purpose of the action. The agency considered taking no action, but this alternative would not provide the anticipated benefit to applicants and would result in the retention of an outdated coordinate system in the regulation.

Family impact

Please assess the impact of the proposed regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one’s spouse, and one’s children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

This action amends an existing chapter considered essential for preserving the health and safety of Virginia’s citizens and promoting the environmental and economic welfare of the Commonwealth. No impact is anticipated on the family, family stability, the authority and rights of parents, the marital commitment or disposable family income..

Detail of changes

Please detail all changes that are being proposed and the consequences of the proposed changes. Detail all new provisions and/or all changes to existing sections.

If the proposed regulation is intended to replace an emergency regulation, please list separately (1) all changes between the pre-emergency regulation and the proposed regulation, and (2) only changes made since the publication of the emergency regulation.

For changes to existing regulations, use this chart:

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
4VAC25-150-90		Use of the Virginia Coordinate System of 1927	Use of the Virginia Coordinate System of 1983. The 1927 system is considered obsolete; the 1983 system is now the industry standard.